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TO: Examiner Alina A. Boutah		FROM: Eustace P. Isidore, Reg. No. 56,104
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☒ URGENT ☐ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ PLEASE RECYCLE

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

DOCKET NO.: AUS000123US1

IN RE APPLICATION OF:

BRUCE A. BEADLE, ET AL.

SERIAL NO.: 09/584,808

FILED: MAY 5, 2003

FOR: DYNAMIC SELECTION OF MOST
EFFICIENT TRANSMISSION MEDIUM AND
ROUTE FROM A CLIENT BROWSER

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EXAMINER: BOUTAH, ALINA A.

ART UNIT: 2143

REPLY BRIEF UNDER 37 C.F.R. 1.192

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Commissioner for Patents
Washington, D.C. 20231

Sir:

This Reply Brief is submitted in response to Examiner's Answer dated September 28, 2004. No fee is believed to be required to submit this Reply Brief. However, in the event any fees are required, please charge IBM CORPORATION'S Deposit Account No. 09-0447. No extension of time is believed to be necessary. However, in the event an extension of time is required, that extension of time is hereby requested. Please charge any fee associated with an extension of time as well as any other fee necessary to further the prosecution of this application to IBM CORPORATION'S Deposit Account No. 09-0447.

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Typed or Printed Name: Shenise RamdegnDate: November 29, 2004Signature: 

REMARKS

This Reply Brief addresses arguments provided by Examiner in the Examiner's Answer dated September 28, 2004. Appellants incorporate by reference the arguments proffered in Appellants' Appeal Brief, and Appellants reiterate that the combination of *Brendel* and *Rosin* does not render Appellants' invention unpatentable because that combination fails to suggest several key features of Appellants' claimed invention.

In the Response to Argument, Examiner states that *Brendel's* teaching of selecting a universal resource locator (URL) (whose content may be located in different servers) suggests Appellants' explicit claim language of selecting a connection type. A URL is a software construct within the transmission protocol and occurs at the mid level of the communications stack. Appellants' claimed invention, in contrast described selecting the hardware-based construct that physically connects (whether via a wired or wireless medium) the client system to a particular server among multiple servers. Unlike a URL "connection," the physical connections occur at the lower level of the communication stack. Also, there is no actual selection of underlying connection media occurring when a URL is entered. Rather the load balancer connects the client to the server without consideration for the type of underlying physical connection available. Within the context of the rest of Appellants' claim language, selecting a connection type would not be understood by one skilled in the art to refer to merely selecting a URL, even given its broadest interpretation.

While Examiner admits that *Brendel* does not provide the selection features of Appellants' invention, Examiner again relies on the combination of *Brendel* with *Rosin* to support the rejection of selecting a connection type from among a plurality of connection types including servers, connection media, and server-medium combination. Notably, however, Examiner provides no support for combining the two references. Examiner merely states that there is some teaching, suggestion or motivation to combine or modify the references to produce the claimed inventions. This statement, provided on its own without supporting teaching within the references, does not provide conclusive evidence that such teaching or motivation is present in either reference.

Examiner also relies on *Rosin* to support the rejection of the graphical user interface (GUI) with selectable options for ... connecting via one or more of said plurality of connection types, and Examiner incorrectly concludes that 'Rosin teaches a GUI with selectable options for selecting server by which the client actually establishes a connection...'

As clearly shown by *Figure 8*, and as described in the Abstract and Summary, *Rosin* displays selecting a channel (ABC, PBS, Sony News, etc.) from among multiple, viewable channels. *Rosin* is devoid of any reference to or suggestion of a client system with a GUI that allows the user to select which connection among several available connections (including several different servers and connection media) to utilize to complete a connection to the network. One skilled in the art would not conclude that providing a GUI for selecting a television channel (ABC, PBS, Sony News, etc.) was in any way synonymous with or suggestive of a GUI with selectable options for allowing the user to select which connection type among several different servers and connection media to utilized for connecting the client to the server. Further, having a server query a client to determine the most efficient delivery of data types is not suggestive of Appellants' GUI with user selectable features. Additional functional features of Appellant's GUI are recited by Claims 9.

Finally, evaluation of historical data about connection types is not suggested by the combination, and the caching of IP addresses is not suggestive of historical data about connection types, for the reasons described above. *Brendel* also does not provide or suggest providing a GUI that includes selectable options for selecting a connection type (server and media) by which the client actually establishes a connection to the Internet.

The section of *Brendel* cited to support the rejection of this feature, namely col. 2, line 29-35, describes the caching of IP addresses at a web browser. Caching of IP addresses at a local browser after the address is utilized by the browser is a common browser feature and one that is inherently different from (and not suggestive of) maintaining historical data about specific connection types (connection servers and media) used by the client to connect to the network.

Again, Appellants have clearly shown that the combination of *Brendel* and *Rosin* neither contemplates nor suggests Appellants' claims, and for those reasons, Examiner's rejection of Appellants' claims is not well founded and should be reversed. Appellants again respectfully request that this case be remanded to the Examiner with instructions to issue a Notice of Allowance with respect to all pending claims.

CONCLUSION

Appellants have again pointed out with specificity the manifest error in the Examiner's rejections, and the claim language which renders the invention patentable over the reference. Appellants, therefore, respectfully request that this case be remanded to the Examiner with instructions to issue a Notice of Allowance with respect to all pending claims.

Respectfully submitted,



Eustace P. Isidore

Reg. No. 56,104

Dillon & Yudell LLP

8911 North Capital of Texas Highway

Suite 2110

Austin, Texas 78759

512.343.6116

ATTORNEY FOR APPELLANTS

APPEAL BRIEF

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